

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**MAR 03 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

HECTOR ALONSO JIMENEZ  
BALLESTEROS,

Petitioner,

V.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-70443

Agency No. A75-486-211

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted February 17, 2006  
Pasadena, California

Before: B. FLETCHER, TASHIMA, and CALLAHAN, Circuit Judges.

Hector Alonso Jimenez Ballesteros, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") denial of his motion to reopen removal proceedings. The motion was based on the birth of Ballesteros' son in the United States. Petitioner contends that the BIA failed to appreciate that

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

the hardship to petitioner in being returned to Mexico would also work a hardship on his son.

As the BIA acted within its broad discretion in denying petitioner's motion to reopen based on his claim that removal would cause an extreme hardship to his son, we lack jurisdiction to review that decision. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *INS v. Doherty*, 502 U.S. 315, 322 (1992); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 891 (9th Cir. 2003); *Kalaw v. INS*, 133 F.3d 1147, 1152 (9th Cir. 1997).

We do, however, have jurisdiction to address petitioner's due process challenge. *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). But such a challenge must, at least, be "colorable." *Id.* Ballesteros' contention that the BIA failed to properly consider the issues raised in his motion to reopen does not meet this requirement. *Id.* We therefore deny Ballesteros' due process challenge.

**PETITION FOR REVIEW DENIED in part and DISMISSED in part.**